

Hearing Date and Time: January 25, 2008 at 10:00 a.m.
Objection Deadline: January 18, 2008

SIMON, STELLA & ZINGAS, P.C.
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

DELPHI CORPORATION, et al

Debtors.

Chapter 11
Case No. 05-44481(RDD)
Jointly Administered
Hon. Robert E. Drain

**RESPONSE OF MOTOR CITY ELECTRIC CO. TO DEBTORS' TWENTY-FOURTH
OMNIBUS OBJECTION PURSUANT TO 11 U.S.C. §502(B) AND FED. R. BANKR. P.
3007 TO CERTAIN (A) DUPLICATE OR AMENDED CLAIMS; (B) CLAIMS NOT
REFLECTED ON DEBTORS' BOOKS AND RECORDS (C) UNTIMELY CLAIMS, AND
(D) CLAIMS SUBJECT TO MODIFICATION, MODIFIED CLAIMS ASSERTING
RECLAMATION, AND CLAIM SUBJECT TO MODIFICATION THAT IS
SUBJECT TO PRIOR ORDER**

Motor City Electric Co. ("MCE") states the following in support of its response to Debtors' Twenty-Fourth Omnibus Objection Pursuant To 11 U.S.C. §502(B) And Fed. R. Bankr. P. 3007 To Certain (A) Duplicate Or Amended Claims; (B) Claims Not Reflected On Debtors' Books And Records (C) Untimely Claims, And (D) Claims Subject To Modification, Modified Claims Asserting Reclamation, And Claim Subject To Modification That Is Subject To Prior Order ("Twenty-Fourth Omnibus Objection"):

INTRODUCTION

1. On October 8, 2005, Delphi Corporation and various affiliates and/or subsidiaries (collectively “Debtors”) filed a petition for relief under chapter 11 of the United States Bankruptcy Code.

2. On or about July 28, 2006, MCE timely filed the following proofs of claim as secured claims:

<u>Claim No.</u>	<u>Filed Amount</u>
13590	\$62,345.12
13591	\$10,487.41
13592	\$ 1,901.51

3. In the Twenty-Fourth Omnibus Objection, Debtors seek to disallow and expunge claim 13591 and reduce and reclassify claims 13590 and 13592. Further, Debtors seek to modify the Debtor against which claims 13590 and 13592 are asserted. Presently, these claims are against Delphi Corporation. Debtors seek a determination that these claims are properly against Delphi Automotive Systems, LLC. Debtors do not give any legal reason for the proposed reduction or change of Debtor.

RESPONSE TO OBJECTION

4. In the Twenty-Fourth Omnibus Objection, Debtors are asking the Court to reduce, modify and reclassify claims 13590 and 13592. MCE objects to the modification, reclassification and reduction of these claims and the Court should deny this relief because there is no authority permitting such relief and the Debtors have not cited any such in the Omnibus Objection.

5. Rule 3001(f) of the Federal Rules of Bankruptcy Procedure provides that “[a] proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.” As the District Court for the Southern District of New York has stated “[a] properly executed and filed proof of claim constitutes prima facie evidence of the validity of the claim. To overcome this prima facie evidence, the objecting party must come forth

with evidence which, if believed, would refute at least on of the allegations essential to the claim.”” *Carey v. Ernst*, 333 B.R. 666, 672 (S.D.N.Y. 2005) *quoting In re Reilly*, 245 BR 768, 773 (2nd Cir. BAP 2000). *See also In re White*, 168 BR 825, 828-829 (Bankr. D. Conn. 1994) (objecting party may not rebut a claim’s prima facie validity by merely stating the amount of the claim is incorrect but must produce evidence to support such argument).

6. MCE’s claims are secured claims against the Debtors based upon properly perfected Claims of Construction Liens asserted under Michigan law relative to certain property interests of the Debtors. All or significantly all of the documents, including invoices, supporting such claims were attached to the proofs of claim when same were filed. Thus, the claims constitute prima facie evidence of the validity of such claims.¹ Debtors have provided no evidence whatsoever that (i) the liens are invalid, unperfected and/or constitute unsecured claims (ii) the amounts claimed are not appropriate or, (iii) or the claims are not properly supported by documentary evidence.

7. In the Twenty-Fourth Omnibus Objection, Debtors do not provide any evidence whatsoever to support their proposed modification, reclassification, expungement, or reduction of the claims let alone any evidence sufficient to refute the prima facie validity of the claims. Because Debtors have not rebutted the prima facie validity of the claims, the Twenty-Fourth Omnibus Objection should be denied with respect to the claims.

8. Any reply to this Response should be addressed to the following:

Stephen P. Stella
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422. W. Congress, Ste. 400
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(313) 962-6400 Ext. 225
(313) 963-4614 (fax)
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9. The contact information for persons who possess the authority to reconcile, settle or

¹The documentation which was attached to the proofs of claim is too voluminous to attach to this response. In any event, it has already been provided to the Debtors with MCE’s proofs of claim.

otherwise resolve the Twenty-Fourth Omnibus Objection to the claim on behalf of MCE is:

Mary Sontag
Motor City Electric Company
9440 Grinnell
Detroit, MI 48213
(313) 921-5300
(313) 921-5310 (fax)

10. MCE reserves all of its rights and remedies.

RELIEF REQUESTED

THEREFORE, Motor City Electric Co. respectfully requests that the Court deny the relief requested under the Twenty-Fourth Omnibus Objection as to the Claims.

SIMON, STELLA & ZINGAS, P.C.

STEPHEN P. STELLA P33351
Attorney for Motor City Electric Co.
422 W. Congress, Ste. 400
Detroit, MI 48226
(313) 962-6400

Dated: January 16, 2008

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Response Of Motor City Electric Co. To Debtors' Twenty-Fourth Omnibus Objection Pursuant To 11 U.S.C. §502(B) And Fed. R. Bankr. P. 3007 To Certain (A) Duplicate Or Amended Claims; (B) Claims Not Reflected On Debtors' Books And Records (C) Untimely Claims, And (D) Claims Subject To Modification, Modified Claims Asserting Reclamation, And Claim Subject To Modification That Is Subject To Prior Order was served via Federal Express to the parties identified below:

Delphi Corp.
5725 Delphi Drive
(Attn: General Counsel)
Troy, MI 48098

Skadden Arps Slate Meagher & Flom LLP
333 West Wacker Drive
Suite 2100
(Attn: John Wm. Butler, Jr.; John K. Lyons, Joseph N. Wharton)
Chicago, IL 60606

and

The Honorable Robert D. Drain
United States Bankruptcy Judge
U.S. Bankruptcy Court for the Southern District of New York
One Bowling Green
Room 610
New York, NY 10004

Dated: January 16, 2008

Stephen P. Stella

Subscribed and sworn to before me
this 16th day of January, 2008

Antinette Gaty, Notary Public
Wayne County, Michigan
My commission expires: 3-2-12